

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**INCOME TAX REFERENCE NO. 97 OF 1996****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG****HONOURABLE MR.JUSTICE M.R. SHAH**

=====

1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
Constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the Civil
Judge?

=====

COMMISSIONER OF INCOME TAX - Applicant(s)

Versus**MAYUR FOUNDATION - Respondent(s)**

=====

Appearance :

MRS. MONA BHATT for MR. MANISH R. BHATT for Applicant(s).
MR. B.D. KARIA for Opponent(s).

=====

CORAM : HONOURABLE MR.JUSTICE R.S.GARG**and****HONOURABLE MR.JUSTICE M.R. SHAH****Date : 30/08/2006****ORAL JUDGMENT****(Per : HONOURABLE MR.JUSTICE R.S.GARG)**

The Income Tax Appellate Tribunal, Ahmedabad

Bench "C", has referred the following question, arising out of I.T.A. No.3107/Ahd/1991 relating to Assessment Year 1981-82, for the opinion of this Court:

"Whether, the Appellate Tribunal is right in law and on facts in holding that the assessee is entitled to the benefits allowable under Section-11(2) of the Act?"

2. It is to be seen that the Tribunal had relied upon its earlier order passed in I.T.A. No.1825/Ahd/1987 relating to Assessment Year 1980-81. In the said matter, the question was referred to this Court on a reference Application No.471/Ahd/1991. The said Reference in the matter of the very same assessee was finally disposed of by the Division Bench of this Court. The said judgement is reported in **(2005) 274 I.T.R. 562 (Commissioner of Income-Tax vs. Mayur Foundation)**. In the said matter, the Division Bench observed that the Tribunal was correct in holding that the Assessee was entitled to the benefits allowable under Section-11(2) of the Income Tax Act, 1961.

3. As the matter is in relation to the same Assessee and, for the earlier year, the question has been answered in favour of the Assessee, we also hold that the

Assessee would be entitled to the benefits allowable under Section-11(2) of the Act. The Reference is answered against the interest of the Revenue. It stands disposed of accordingly. No costs.

[R.S.Garg, J.]

[M. R. Shah, J.]

*kamlesh**